

EXHIBIT KK

1 IN THE UNITED STATES DISTRICT COURT
2 OF THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION
4
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6))
7 IN RE: ETHICON, INC., PELVIC) Master File No.
8 REPAIR SYSTEM PRODUCTS) 2:12-MD-02327
9 LIABILITY LITIGATION) MDL 2327
10))
11 -----
12 THIS DOCUMENT RELATES TO THE)
13 FOLLOWING CASES IN WAVE 1 OF) JOSEPH R. GOODWIN
14 MDL 200:) U.S. DISTRICT JUDGE
15))
16))
17 DONNA MASSEY) Civil Action No.
18 Plaintiff) 2:12-cv-0880
19 vs.)
20)
21 ETHICON, INC., ET AL.)
22 Defendant.)
23)
24 -----

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16 -----
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18 --- This is the Deposition of VLADIMIR IAKOVLEV,
19 MD, taken at the Hilton Hotel, 145 Richmond Street
20 West, Toronto, Ontario, on the 5th day of March, 2016.
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23
24

REPORTED BY: HELEN MARTINEAU

1	Donna Loustaunau)
	v. Ethicon, Inc., et al.)
2	Civil Action No. 2:12-cv-00666)
)
3	Patricia Ruiz)
	v. Ethicon, Inc., et al.)
4	Civil Action No. 2:12-cv-01021)
)
5	Betty Funderburke)
	v. Ethicon, Inc., et al.)
6	Civil Action No. 2:12-cv-00957)
)
7	Elizabeth Blynn Wolfe)
	v. Ethicon, Inc., et al.)
8	Civil Action No. 2:12-cv-01286)
)
9	Barbara Vignos-Ware, et al.)
	v. Ethicon, Inc., et al.)
10	Civil Action No. 2:12-cv-00761)
)
11	Patti Ann Phelps, et al.)
	v. Ethicon, Inc., et al.)
12	Civil Action No. 2:12-cv-01171)
)
13	Dina Sanders Bennett)
	v. Ethicon, Inc., et al.)
14	Civil Action No. 2:12-cv-00497)
)
15	Charlene Logan Taylor)
	v. Ethicon, Inc., et al.)
16	Civil Action No. 2:12-cv-00376)
)
17	Cynthia Nix)
	v. Ethicon, Inc., et al.)
18	Civil Action No. 2:12-cv-01278)
)
19	Barbara Kaiser)
	v. Ethicon, Inc., et al.)
20	Civil Action No. 2:12-cv-00887)
)
21	Carol Jean Dimock)
	v. Ethicon, Inc., et al.)
22	Civil Action No. 2:12-cv-00401)
)
23	Ana Ruebel)
	v. Ethicon, Inc., et al.)
24	Civil Action No. 2:12-cv-00663)

1	Jackie Frye)
	v. Ethicon, Inc., et al.)
2	Civil Action No. 2:12-cv-1004)
)
3	Joan Adams)
	v. Ethicon, Inc., et al.)
4	Civil Action No. 2:12-cv-01203)
)
5	Sharon Boggs, et al.)
	v. Ethicon, Inc., et al.)
6	Civil Action No. 2:12-cv-00368)
)
7	Dina Destefano-Raston, et al.)
	v. Ethicon, Inc., et al.)
8	Civil Action No. 2:12-cv-01299)
)
9	Teresa Georgilakis, et al.)
	v. Ethicon, Inc., et al.)
10	Civil Action No. 2:12-cv-00829)
)
11	Donna Hankins, et al.)
	v. Ethicon, Inc., et al.)
12	Civil Action No. 2:12-cv-01011)
)
13	Nancy Hooper, et al.)
	v. Ethicon, Inc., et al.)
14	Civil Action No. 2:12-cv-00493)
)
15	Krystal Teasley)
	v. Ethicon, Inc., et al.)
16	Civil Action No. 2:12-cv-00500)
)
17	Margaret Stubblefield)
	v. Ethicon, Inc., et al.)
18	Civil Action No. 2:12-cv-00842)
)
19	Cindy Smith)
	v. Ethicon, Inc., et al.)
20	Civil Action No. 2:12-cv-01149)
)
21	Lois Hoy, et al.)
	v. Ethicon, Inc., et al.)
22	Civil Action No. 2:12-cv-00876)
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23	Constance Daino, et al.)
	v. Ethicon, Inc., et al.)
24	Civil Action No. 2:12-cv-01145)

1 Janet Smith, et al.)
v. Ethicon, Inc., et al.)
2 Civil Action No. 2:12-cv-00861)
)
3 Harriet Beach)
v. Ethicon, Inc., et al.)
4 Civil Action No. 2:12-cv-00476)
)
5 Maria C. Stone, et al.)
v. Ethicon, Inc., et al.)
6 Civil Action No. 2:12-cv-00652)
)
7 Diane Kropf, et al.)
v. Ethicon, Inc., et al.)
8 Civil Action No. 2:12-cv-01202)
)
9 Virginia White, et al.)
v. Ethicon, Inc., et al.)
10 Civil Action No.2:12-cv-00958)
)
11 Dee McBrayer, et al.)
v. Ethicon, Inc., et al.)
12 Civil Action No. 2:12-cv-00779)
)
13 Julie Wroble, et al.)
v. Ethicon, Inc., et al.)
14 Civil Action No. 2:12-cv-00883)
)
15 Sherry Fox, et al.)
v. Ethicon, Inc., et al.)
16 Civil Action No. 2:12-cv-00878)
)
17 Joyce Justus)
v. Ethicon, Inc., et al.)
18 Civil Action No. 2:12-cv-00956)
)
19 Kathleen Wolfe)
v. Ethicon, Inc., et al.)
20 Civil Action No. 2:12-cv-00337)

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Vladimir Iakovlev, M.D.

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1 --- Upon commencing at 8:27 a.m.

2

3 (WHEREUPON, the witness was duly affirmed.)

4

5 VLADIMIR IAKOVLEV, MD,

6 called as a witness herein, having been

7 first duly affirmed, was examined

8 and testified as follows:

9 CROSS-EXAMINATION BY MR. COMBS:

10 Q. Dr. Iakovlev, I'm going to ask you
11 some questions about Donna Massey's case. And let's
12 turn to the photographs in your report. So before we
13 do that just two preliminary things. One, are all the
14 materials that you had to review in this case included
15 on the flash drive which your counsel just handed me
16 that we've marked as Massey Exhibit 3?

17 ---EXHIBIT NO. 3: Flash drive
18 containing files reviewed by
19 Dr. Iakovlev in compiling his
20 clinico-pathological report re. Donna
21 Massey.

22 THE DEPONENT: Yes.

23 BY MR. COMBS:

24 Q. And would all the work be done

1 during the time period from when you got the chain of
2 custody form, 11/6/2015, until the date of the report?

3 A. For the earliest. If there are two
4 chain of custody forms, and this would be pertinent to
5 all cases. Sometimes I was getting two specimens. I
6 could start work with earlier specimen and then receive
7 later specimen.

8 Q. But there was just one on the flash
9 drive.

10 A. Yes, because I don't know how many
11 were there. This would be general assumption. So
12 starts with earliest and then ends with the date I
13 signed.

14 Q. And you told us in an earlier
15 deposition that you did not keep your specific time for
16 this case, and that you did not note the specific days
17 on which you worked on it, but that it was your
18 estimate that it would be somewhere between 15 and 20
19 hours. Is that accurate for this case as well?

20 A. Yes.

21 ---EXHIBIT NO. 1: Clinico-pathological
22 report of Dr. Vladimir Iakovlev re.

23 Donna Massey.

24

1 BY MR. COMBS:

2 Q. All right. On figure DN1 what do
3 you plan on telling the jury about this photograph at
4 the trial?

5 A. Might be easier if we start with
6 text rather than with pictures because now I have to
7 explain what's in the text. Because logically it goes
8 through pathology description first. Because I see
9 that you tend to start with pictures and now we have to
10 spend time to explain.

11 So the excision was done in 2010. And
12 the pathology material was H&E slides. And H&E slides
13 were -- there were four slides, A1, A2, A3, and A4 from
14 the description of original pathologist. And some of
15 the portions were not from the mesh material. They
16 were submitted in the same jar but clearly they were
17 identified as vulvar lesion. So this picture depicts
18 the vulvar lesion itself and it's a benign, epidermal
19 inclusion cyst. It's a reactive condition when hair
20 follicles get trapped.

21 Q. Anything else that you're going to
22 say about this slide at the trial?

23 A. No.

24 Q. Did you check this slide to

1 determine whether any nerves were implicated in the
2 vulvar lesions?

3 A. No.

4 Q. Did you stain any of these cysts
5 with S100 or neurofilament or PGP9.5?

6 A. No.

7 MR. THORNBURGH: Objection.

8 BY MR. COMBS:

9 Q. Let's turn now to DM2. What will
10 you be saying about that photograph at the trial?

11 A. Now this piece is from a different
12 part of the genital organs. So this is a mesh. And if
13 we go back to operative report, so "the mesh was
14 visible and palpable and the exposed part was excised."
15 After that they excised the vulvar lesion, sebaceous
16 cyst, or epidural inclusion cyst. So after the mesh
17 was excised the surgeon, operating surgeon excised
18 sebaceous cysts or epidermal inclusion cysts, as I
19 described.

20 So now we're going to actually the mesh
21 specimen or fragments representing mesh. And I'm going
22 to tell the jury that this is monofilament, knitted
23 mesh in keeping with Ethicon pelvic organ prolapse mesh
24 type of device. So in this case it's Prolift. And she

1 had total Prolift anterior and posterior. And this
2 piece is coming from the vagina not the vulvar or
3 external vulva. And it's incorporated in scar tissue
4 and some parts of the mesh are exposed through the
5 surface; and there is granulation tissue with acute
6 inflammation; and it's incorporated in folded shape by
7 the scar tissue. That's it.

8 Q. Anything else?

9 A. No. Unless you ask something else.
10 I mean, I can give you a lecture so I'm not limited to
11 what I just said.

12 Q. Now you received -- well, as we sit
13 here today is there anything else you plan on telling
14 the jury about this photograph?

15 MR. THORNBURGH: Objection.

16 THE DEPONENT: I can fill two hours just
17 talking about this photograph, the pathophysiology and
18 everything else.

19 BY MR. COMBS:

20 Q. Well, if you plan on saying
21 something about that photograph at the trial of this
22 case you need to tell us.

23 A. It's not that I'm planning it's that
24 what I can. If somebody ask me a question I will

1 answer it. I just don't want to limit myself to what I
2 just said. I mean, if you keep asking questions about
3 this photograph I can answer questions for hours.

4 Q. Look, I'm here for nine days for one
5 purpose, to discover what you're going to say at the
6 trial of these cases. So you need to tell us what that
7 is.

8 MR. THORNBURGH: Objection.
9 Argumentative.

10 THE DEPONENT: We have two hours per
11 patient so either we talk about one photograph for two
12 hours --

13 MR. THORNBURGH: If he wants you to talk
14 about one photograph for two hours talk about one
15 photograph for two hours.

16 BY MR. COMBS:

17 Q. If you plan on saying something at
18 the trial of this case about that photograph you need
19 to tell us.

20 MR. THORNBURGH: It's in his reports.
21 You've taken his deposition before. You know what this
22 represents. You know that this represents everything
23 that he's given opinions about in other cases. He's --
24 but if you want to talk about this one picture for two

1 hours go for it.

2 BY MR. COMBS:

3 Q. If there's something you're going to
4 say about this photograph tell us what it is.

5 A. I'm -- I may not be planning but I
6 can. The difference is what I can say if I must and
7 what I'm planning to say.

8 Q. Well, it doesn't work that you get
9 to come up here and say, I don't know what I'm going to
10 say about it. I'm not going to tell you what I'm going
11 to say about it. How it works is I ask you what is
12 your opinion going to be about this photograph at trial
13 and you need to tell us.

14 A. I did not say that I don't know.

15 MR. THORNBURGH: Why don't we do this,
16 why don't you give him a summary of what this
17 microphotograph demonstrates?

18 THE DEPONENT: If you want a summary,
19 yes, if you want entire --

20 MR. THORNBURGH: I think he's asked for
21 a summary.

22 THE DEPONENT: I give you a summary.

23 BY MR. COMBS:

24 Q. Okay.

1 A. But that's just a summary. It's
2 impossible to include everything in one summary that's
3 why it's called a summary.

4 Q. Which one of the samples is this
5 photograph from?

6 A. What do you mean which one?

7 Q. Which one? You said you received
8 four -- alright -- from the original pathology
9 received.

10 A. It's one specimen.

11 Q. Which one?

12 A. It's one specimen.

13 Q. Okay. Alright.

14 A. It's one specimen in one jar.

15 Q. Okay. And it has six tan to grey
16 pieces?

17 A. Yes.

18 Q. And four slides?

19 A. Yes.

20 Q. Which one is this?

21 A. How do you determine which one?

22 There are six in the same jar, they're mixed. There is
23 no difference between them because they are already put
24 in the jar. The only difference I can see is

1 microscopic. Microscopically I clearly see that this
2 is vulvar lesion this is mesh.

3 Q. Is this from A1, A2 or A3?

4 MR. THORNBURGH: Objection.

5 THE DEPONENT: Doesn't matter because
6 it's one specimen.

7 BY MR. COMBS:

8 Q. Can you tell me whether that is from
9 A1, A2, A3 or A4?

10 A. No. This is not the purpose because
11 it's not a separate specimen. We separate only when
12 it's a separate specimen. If it's the same specimen
13 that's put in different cassettes you can put it in any
14 order because it's already in one jar. There would not
15 be a distinction. You're making an artificial
16 distinction and this is wrong. This is -- this would
17 be against standards of pathology because once it's in
18 one jar it's one specimen. There's no difference
19 between any of this. They're already mixed.

20 Q. Here's my question, yes or no. Can
21 you tell me whether that is from A1?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: I will not answer this
24 question the way you ask because it misrepresents the

1 way we process specimens.

2 BY MR. COMBS:

3 Q. Can you tell me whether that is from

4 A2?

5 A. I just gave you an answer.

6 Q. Can you tell me whether it's from

7 A3?

8 MR. THORNBURGH: Objection.

9 THE DEPONENT: I just gave you an
10 answer.

11 BY MR. COMBS:

12 Q. Can you tell me whether it's from

13 A4?

14 MR. THORNBURGH: Objection.

15 THE DEPONENT: I just gave you an
16 answer.

17 BY MR. COMBS:

18 Q. So you don't know do you?

19 A. I don't want to answer the question
20 you put the way which misrepresents handling of
21 specimens.

22 Q. This came in six pieces didn't it?

23 A. It came in one jar. All pieces
24 unlabelled, unmarked. There was no stitches to

1 identify one or the other.

2 Q. And how many pieces were in that
3 jar?

4 A. Six multiple.

5 Q. Okay.

6 A. Not labelled. All of them are the
7 same.

8 Q. And the tissue was submitted as A1,
9 A2, A3, and A4 wasn't it?

10 A. That's correct.

11 Q. Which one of those four is this?

12 A. So are we going back? I mean,
13 you're trying to misrepresent -- are you a pathologist
14 or am I a pathologist.

15 MR. THORNBURGH: He's already answered
16 your question, Phil.

17 MR. COMBS: No he hasn't. He said I
18 refuse to answer your question. That's what the answer
19 was, Dan.

20 MR. THORNBURGH: No, that's a
21 misrepresentation. You're mischaracterizing his
22 testimony. The record will speak for itself. He
23 answered the question the best way he was able to
24 answer your question.

1 BY MR. COMBS:

2 Q. Here's the question. Do you know
3 whether this is A1, A2, A3 or A4? That's the question.
4 And you refuse to answer it so --

5 MR. THORNBURGH: No, he didn't refuse to
6 answer it. He answered your question. Now you're
7 being argumentative.

8 BY MR. COMBS:

9 Q. Do you know whether there is A1, A2,
10 A3 or A4?

11 MR. THORNBURGH: You don't need to
12 answer it again.

13 MR. COMBS: You haven't answered it yet.

14 MR. THORNBURGH: He has answered it.

15 MR. COMBS: What's the answer? You tell
16 me the answer then. If he's answered it then what's
17 the answer?

18 MR. THORNBURGH: It came in one jar.

19 MR. COMBS: That's not the question. I
20 didn't ask him did this come in a jar. I asked him can
21 you tell me is this A1, A2, A3 or A4?

22 MR. THORNBURGH: He said they were not
23 labelled. They all came in the same jar.

24 MR. COMBS: That's not the answer.

1 MR. THORNBURGH: That is the answer.

2 THE DEPONENT: That's intelligent
3 answer.

4 BY MR. COMBS:

5 Q. Okay. Do you refuse to answer the
6 question whether this is from A1, A2, A3 or A4?

7 A. Okay. I can answer it this way.
8 Since it came in one jar it was not my purpose and
9 would be wrong to separate the slides because they all
10 come -- but if you insist, if you want me to answer
11 that question for you because this would not be the
12 purpose of my examination. But if you really want it
13 you can send the slides back, I can look at them and I
14 can say which part of it. But this would be only for
15 you as a lawyer. I mean this wouldn't be a
16 pathological question or within the standards of
17 pathology. Send me the slides I can tell you, but this
18 is irrelevant because they came in one jar.

19 Q. Okay. DM1, is that A1, A2, A3 or
20 A4?

21 MR. THORNBURGH: Objection.

22 THE DEPONENT: I just gave you an
23 answer. It would be wrong to separate them because
24 they came in one jar. It's the same specimen

1 unlabelled. If you want me to answer send me the
2 slides I will give you. But it is irrelevant. I don't
3 want it to sound on the record as if it is relevant.

4 BY MR. COMBS:

5 Q. Okay. As we sit here today you
6 can't tell me can you?

7 MR. THORNBURGH: Objection.

8 THE DEPONENT: I just gave you full
9 answer. I mean how many times can we run around it?

10 BY MR. COMBS:

11 Q. Let's talk about DM2. You said that
12 the mesh was folded. Can you tell us when that mesh
13 was folded?

14 A. Sometime after it was placed in the
15 body and a few months before it was excised.

16 Q. And it could have happened at the
17 time of implantation couldn't it?

18 MR. THORNBURGH: Objection.

19 THE DEPONENT: It could.

20 BY MR. COMBS:

21 Q. Dr. Iakovlev, let me mark this as
22 Exhibits 4 and 5.

23 ---EXHIBIT NO. 4: Document depicting a
24 side view of a pelvic floor diagram.

1 ---EXHIBIT NO. 5: Document depicting a
2 pelvic floor diagram.

3 BY MR. COMBS:

4 Q. I've handed you Exhibit 4 which is a
5 side view pelvic floor diagram, and I've handed you
6 Exhibit 5 which is also a pelvic floor diagram. Are
7 you able to put on either one of those exhibits --

8 MR. THORNBURGH: I'm going to object to
9 the use of those exhibits. First of all you haven't
10 provided me with a copy of them.

11 MR. COMBS: Well you're welcome to look
12 at them.

13 MR. THORNBURGH: Second of all, the
14 models don't represent the patient.

15 MR. COMBS: Well you're welcome to look
16 them. Do you want to take a break and look at the
17 diagrams?

18 MR. THORNBURGH: I'll look at them real
19 quick. I object to the use of these models with this
20 pathologist.

21 BY MR. COMBS:

22 Q. Dr. Iakovlev, can you show us where
23 the photograph that you have talked about at DM2 can
24 you show us where that came from?

1 MR. THORNBURGH: Objection.

2 THE DEPONENT: These are models not of
3 the patient. I mean, I said it's coming from vagina
4 and the models don't represent the patient. I cannot.
5 How can I point something which doesn't reflect what
6 was in real life.

7 BY MR. COMBS:

8 Q. Okay. Are you able to tell us what
9 part of Ms. Massey's vagina that the tissue that is
10 depicted in DM2 came from?

11 A. It's vaginal wall. So if you want
12 me to --

13 Q. Can you tell us what part of the
14 vaginal wall?

15 MR. THORNBURGH: Objection.

16 THE DEPONENT: The only reliable source
17 would be excising physician for specific location.
18 Vaginal wall I can only go by the records. And I will
19 not point anything on the diagrams because they do not
20 represent the patient. They are hypothetical diagrams.

21 BY MR. COMBS:

22 Q. For any of the photographs that you
23 have from DM1 to DM14 will you be providing any
24 testimony at trial as to the location in the patient's

1 body where that tissue sample came from?

2 MR. THORNBURGH: Objection.

3 THE DEPONENT: Vaginal wall.

4 BY MR. COMBS:

5 Q. Will you be any more specific than
6 that?

7 A. We can refer to surgical operative
8 report, and that's the primary source if we have it
9 because I examined the specimen.

10 Q. Have you reviewed the surgical
11 operative report?

12 A. Yes, I did.

13 MR. THORNBURGH: Do you want to give him
14 a copy of it, Phil.

15 MR. COMBS: Yeah, I'm going to look for
16 it.

17 THE DEPONENT: Just want to put it on
18 the record this diagram would be totally wrong because
19 it misrepresents Ms. Massey's condition at the time of
20 excision. This is a diagram of a lady with uterus.
21 Ms. Massey had hysterectomy prior to this.

22 BY MR. COMBS:

23 Q. And is -- are any of these samples
24 from the uterine area that didn't exist?

1 A. I don't understand your question.

2 Q. So is it because there is a uterus
3 on there that you're not able to place where the
4 samples came from?

5 A. No.

6 Q. It's a different location of the
7 body isn't it?

8 A. It's completely different state of
9 the pelvic organs.

10 Q. Exactly. So this section of the
11 body that doesn't even exist in this patient is not in
12 any way keeping you from marking on this diagram is it?

13 MR. THORNBURGH: Objection. You're
14 mischaracterizing what he just told you.

15 THE DEPONENT: You're giving me diagram
16 which is not just hypothetical which is wrong. It's
17 against -- I'm not marking anything.

18 BY MR. COMBS:

19 Q. Here's a Sharpie. Mark that out and
20 then mark on the diagram where the tissue sample came
21 from?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: I'm not marking anything.
24 It doesn't represent the patient.

1 BY MR. COMBS:

2 Q. Here is what is marked as Massey
3 Exhibit 6, what you asked for.

4 ---EXHIBIT NO. 6: Document from East
5 Side Surgery Centre re. Donna Massey,
6 Bates labelled MASSEYD_EASSC_MDR00002.

7 BY MR. COMBS:

8 Q. And looking at that are you able to
9 tell us now where the tissue sample came from that's in
10 DM2?

11 A. So it states, "Mesh erosion at the
12 apex". So there was apex of the vaginal vault where
13 the erosion was. That's the excising surgeon
14 description.

15 Q. Can you tell us anything more
16 specific than that?

17 A. How much more specific can it be.
18 Apex.

19 Q. Can you mark that on the diagram?

20 MR. THORNBURGH: Objection.

21 THE DEPONENT: On what diagram? Which
22 doesn't represent the patient or represents wrong state
23 of the patient?

24

1 BY MR. COMBS:

2 Q. Now, let me ask you this, are all of
3 the photographs from DM2 to DM14 of the same piece of
4 the tissue sample that you've described in the
5 pathology? Does that question make sense?

6 A. Not really.

7 Q. Okay. So here's what I want to ask
8 you. You said you had six fragments of tissue?

9 A. I didn't say that. It was described
10 in the pathology report.

11 Q. Did you not get six fragments of
12 tissue?

13 A. I had slides not six fragments of
14 tissue.

15 Q. So let's ask about these
16 photographs.

17 A. Okay.

18 Q. Are they all from the same slide?

19 A. I don't know now. It's the same
20 specimen. What the difference?

21 Q. That's my question. Are they all
22 from the same slide?

23 A. I don't remember now.

24 MR. COMBS: What's the Bates number on

1 Exhibit 6? I gave you my copy.

2 MR. THORNBURGH: EASSC underscore
3 MDR00002.

4 BY MR. COMBS:

5 Q. Dr. Iakovlev, what do you plan on
6 telling the jury about DM3a and 3b at the trial?

7 A. Everything I just told you about the
8 previous picture, plus there is an erosion site.

9 Q. I apologize, I didn't hear what you
10 said.

11 A. Erosion site.

12 Q. Thank you.

13 A. So 3b is a higher power with most
14 likely configuration of the mesh plain that shows the
15 curled edge is being exposed.

16 And then DM4 is high power of the
17 exposure site with dense acute inflammation, which is
18 typical for infected wound.

19 Q. So for DM3a and 3b same question
20 regarding the folding. You do not know whether that
21 folding happened at the time of implantation do you?

22 A. That's correct.

23 MR. THORNBURGH: Objection.

24

1 BY MR. COMBS:

2 Q. And the lines that are on 3b those
3 are the yellow lines that you added onto the picture
4 with your computer program?

5 A. Yes.

6 Q. On DM4 was there anything else that
7 you plan to tell the jury at the trial of the case?

8 MR. THORNBURGH: Objection.

9 THE DEPONENT: I just told you
10 everything.

11 BY MR. COMBS:

12 Q. And you said that this tissue was
13 infected. Were any cultures done that established
14 there was an infection?

15 A. Again, you misrepresent the -- again
16 you misrepresent the field of pathology and how we do
17 anatomical pathology.

18 Yesterday I gave you a short lecture
19 about neutrophils and acute inflammation and connection
20 with bacterial infection, that's my answer.

21 Q. You have the excision report from
22 Dr. Richards, which you've asked me to provide you.
23 It's over there marked as Exhibit 6. Did Dr. Richards
24 diagnose Ms. Massey as suffering from an infection?

1 MR. THORNBURGH: Objection.

2 THE DEPONENT: He diagnosed her with
3 mesh erosion.

4 BY MR. COMBS:

5 Q. Did Dr. Richards diagnose Ms. Massey
6 as suffering from an infection?

7 MR. THORNBURGH: Objection.

8 THE DEPONENT: Erosion means infection.
9 This is as a given. Again you misrepresent the
10 diagnosis.

11 BY MR. COMBS:

12 Q. So it's your testimony that the word
13 "erosion" in an operative report means infection?

14 MR. THORNBURGH: Objection.

15 THE DEPONENT: My testimony is mesh
16 erosion is invariably associated with infection, and
17 every physician knows that. The extent of infection,
18 is it just local or extensive, would be different. But
19 it's a given, if there is a wound there is infection.
20 It's a basic and established fact of medicine.

21 BY MR. COMBS:

22 Q. And so is it your testimony that
23 every medical record that has the word "erosion" that
24 that means that that patient also suffered an

1 infection?

2 MR. THORNBURGH: Objection.

3 THE DEPONENT: Every physician will
4 understand. If there is an erosion there is an
5 infection.

6 BY MR. COMBS:

7 Q. Now, did the treating pathologist,
8 Dr. Brownell, diagnose Ms. Massey with having an
9 infection?

10 A. Again you are misrepresenting the
11 field of pathology trying to teach me medicine. There
12 is no word of "infection" here but this doesn't mean
13 that he or she?

14 Q. Dr. Mark Brownell.

15 A. He did not see acute inflammation.

16 Q. Do you disagree with the treating
17 pathologist's diagnosis in this case?

18 A. No. I mean, I described the same
19 features I just expand more.

20 Q. Dr. Iakovlev, what do you plan on
21 saying at the trial of this case about DM5?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: It's another site of
24 erosion, larger magnification, dense acute

1 inflammation. This is pus. That's what I call pus on
2 the -- that's how pus looks under the microscope.

3 BY MR. COMBS:

4 Q. Anything else?

5 A. No.

6 Q. Dr. Brownell did not diagnose acute
7 inflammation did he?

8 MR. THORNBURGH: Objection.

9 THE DEPONENT: Well, the picture speaks
10 for itself. If he didn't see it, or he didn't include
11 it, or he didn't think that it was relevant that's a
12 different question but you see the picture.

13 BY MR. COMBS:

14 Q. In any event that wasn't part of his
15 diagnosis was it?

16 MR. THORNBURGH: Objection.

17 THE DEPONENT: I don't know why. I
18 mean, don't ask me why it's not there.

19 BY MR. COMBS:

20 Q. Dr. Iakovlev, let me ask you now
21 about DM6, what do you plan on saying about that at the
22 trial of the case?

23 A. Now this is a deeper part. The mesh
24 is in the scar tissue deeper away from the erosion site

1 and there is foreign body type inflammation. This is a
2 different inflammation, it's a more specific against
3 foreign bodies.

4 Q. Dr. Iakovlev, is DM6 from the same
5 slide as DM2, 3 and 4?

6 A. I don't remember now. Why does it
7 matter? You make it sound as if it matters.

8 Q. Do you know?

9 A. I don't remember.

10 MR. THORNBURGH: Objection.

11 THE DEPONENT: My answer was I don't
12 remember because it doesn't matter.

13 BY MR. COMBS:

14 Q. Dr. Iakovlev, help me understand
15 what you're calling out with the arrows on DM6. So
16 you've -- you say "foreign body type" and "chronic
17 inflammation"?

18 A. So there is a mix. There is some
19 lymphoplasmacytic or mostly lymphocytes, and then
20 closer to the fibers there is microphages. So this is
21 likely a transition between erosion infected on one
22 side and deeper side. So the very top eroded side will
23 have acute inflammation, and then when we go deeper in
24 the tissue there will be more chronic inflammation,

1 lymphoplasmacytic inflammation. And then if we go down
2 the mesh fibres will be sounded by foreign body types.
3 So this would be a transitional sort or zone.

4 Infection doesn't spread completely
5 along the mesh, it spreads to specific level; and then
6 I don't see acute inflammation or chronic inflammation.

7 Q. Dr. Iakovlev, what do you plan on
8 saying about figure DM7 at the trial of this case?

9 MR. THORNBURGH: Objection.

10 THE DEPONENT: There is a nerve inside a
11 mesh pore. This nerve wasn't there. It grew into the
12 mesh after mesh placement so now it's trapped by
13 position. It's a healthy nerve. There is nothing --
14 no nerve disease in it it's just -- its position is
15 abnormal.

16 BY MR. COMBS:

17 Q. And will you be testifying at the
18 trial of the case that the nerve is distorted?

19 A. No.

20 Q. Will you be testifying that this
21 nerve exhibits a traumatic neuroma?

22 A. No. There is some inflammation
23 around it.

24 Q. You have an arrow that is pointing

1 to the nerve and you write under it "nerve." To the
2 left of the nerve there are two features.

3 A. There are two capillaries.

4 Q. Are those vessels?

5 A. Yes, small vessels.

6 Q. Are those vessels associated with
7 that nerve?

8 A. Yeah, it's a small neurovascular
9 bundle.

10 Q. If that nerve is associated with
11 those vessels does that tell you anything about what
12 type of nerve it is?

13 MR. THORNBURGH: Objection.

14 THE DEPONENT: I think we went through
15 this. The nerves are mixed. Is that what you're
16 trying to -- are we going back to the sensory motor
17 issue or -- I don't understand your question.

18 BY MR. COMBS:

19 Q. Here is my question. Does the fact
20 that that nerve is associated with those two vessels
21 tell you anything about the function of that nerve?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: I told you it's mixed
24 nerve and we talked about it yesterday.

1 BY MR. COMBS:

2 Q. So it's your belief that's a mixed
3 nerve?

4 A. Yes.

5 Q. Let's talk about DM8. What do you
6 plan on telling the jury at the trial of this case
7 about DM8?

8 A. That's similar feature. There is
9 vessel, small neurovascular bundle in the mesh pore.

10 Q. Will you be testifying that it's
11 distorted?

12 A. Not really it's entrapped in the
13 mesh pore but I don't see distortion, in this level. I
14 mean, I don't know what's 1 millimeter away.

15 Q. And will you be testifying that this
16 exhibits any features of a traumatic neuroma?

17 A. No.

18 Q. Anything else that you plan on
19 telling the jury about DM8?

20 MR. THORNBURGH: Objection.

21 THE DEPONENT: No.

22 BY MR. COMBS:

23 Q. Which slide is DM8 from?

24 MR. THORNBURGH: Objection.

1 THE DEPONENT: Are we going to ask that
2 question for each figure? I told you I don't remember
3 and it doesn't matter that's why I don't remember.

4 BY MR. COMBS:

5 Q. Is DM7 and -- DM7 and DM8 the same
6 slide?

7 MR. THORNBURGH: Objection.

8 THE DEPONENT: DM7 and DM8 are not
9 slides they're pictures.

10 BY MR. COMBS:

11 Q. Excuse me, pictures of a slide. Are
12 they pictures of the same slide?

13 A. I don't remember because it didn't
14 matter.

15 Q. Would you describe the nerves and
16 nerve twigs depicted on DM7 and DM8 as being normal
17 nerves and nerve twigs?

18 MR. THORNBURGH: Objection.

19 THE DEPONENT: Morphologically they are
20 normal, the location is abnormal.

21 BY MR. COMBS:

22 Q. Dr. Iakovlev, what do you plan on
23 telling the jury about the picture at DM9?

24 A. There are nerve twigs within scar

1 tissue in the mesh, mesh scar plate.

2 Q. Anything else?

3 MR. THORNBURGH: Objection.

4 THE DEPONENT: It's a summary. The
5 nerves are there, the tissue is innervated.

6 BY MR. COMBS:

7 Q. Do the nerve twigs appear normal?

8 MR. THORNBURGH: Objection.

9 THE DEPONENT: Relatively yeah, the
10 position is abnormal.

11 BY MR. COMBS:

12 Q. Do they exhibit any distortion?

13 MR. THORNBURGH: Objection.

14 THE DEPONENT: No, not really.

15 MR. THORNBURGH: Objection.

16 BY MR. COMBS:

17 Q. Do they exhibit any features that
18 you would define as exhibiting a traumatic neuroma?

19 A. No.

20 Q. DM10. What do you plan on telling
21 the jury about that slide?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: There is a bundle of

24 small nerve twigs somewhere inside the mesh that shows

1 density of innervation inside the mesh. All these
2 nerve twigs grew into this spaces which were created by
3 placement of the mesh.

4 BY MR. COMBS:

5 Q. Are those nerve twigs associated
6 with vessels?

7 A. Well, there is one vessel right
8 inside. I wouldn't classify it as neurovascular bundle
9 because there are multiple twigs all around. Some of
10 them have some vessels beside them, some of them don't.

11 Q. Does the fact that these nerve twigs
12 are associated with a vessel tell you anything about
13 the function of that nerve?

14 MR. THORNBURGH: Objection.

15 THE DEPONENT: Well, these twigs are
16 very small and they're all spreading. Some of them may
17 start getting only one function, either motor or
18 sensory.

19 BY MR. COMBS:

20 Q. So you believe that these twigs
21 would have a motory (sic) or sensory function?

22 A. Some of them may be limited to only
23 one function. It would be hard to say. They're
24 getting smaller and smaller.

1 Q. And does the fact that these twigs
2 are associated with particular vessels tell you
3 anything about their function?

4 MR. THORNBURGH: Objection.

5 THE DEPONENT: What do you mean
6 particular vessel? I don't understand this question.

7 BY MR. COMBS:

8 Q. I believe that.

9 MR. THORNBURGH: Hold on. Objection.
10 Argumentative. Ask a better question.

11 BY MR. COMBS:

12 Q. I'm sure I can ask a better
13 question.

14 A. There is a vessel right in the
15 middle and there is like 15, 20 twigs.

16 Q. Are any of the twigs associated with
17 that vessel?

18 A. There are some around it.

19 Q. And what's the function of those
20 twigs?

21 A. I said they are getting so small
22 they might be getting into either sensory or motor
23 only.

24 Q. Do you know?

1 A. Some of them are just -- it's
2 impossible. I mean, they're myelinated. Some of them
3 can be like small fibers. It's obvious there's only
4 one fiber.

5 Q. Dr. Iakovlev, let me ask you now
6 collectively about the photographs that you've labelled
7 DM7 through DM10. Did you consult a neuropathologist
8 regarding any of features in those photographs?

9 MR. THORNBURGH: Objection.

10 THE DEPONENT: Oh, I think we're going
11 to be getting back to this question again and again.

12 So neuropathologists are specialized
13 pathologists who specialize in examination of brain
14 tumors of neurodegenerative diseases of the brain and
15 peripheral nerves and muscle biopsies. They do not
16 look at soft tissue. They do not look at explanted
17 foreign bodies. So to show explanted mesh to a
18 neuropathologist who doesn't do general surgical
19 pathology might be as beneficial as showing the slides
20 to a resident.

21 "Neuro" sounds like for nonpathologist
22 as if it would be representing somebody who knows about
23 nerves but the specimen is actually all about the mesh
24 as a foreign body.

1 Assuming if you go to pharmacy and a
2 chemist is working there. So a chemist might be
3 knowledgeable about chemistry. Can he do polymer
4 science? It's just a play on words.

5 But in reality, as I said,
6 neuropathologist-s do not look at soft tissue,
7 explanted vaginal meshes. Most of them will have no
8 idea what they're looking at if you give them explanted
9 vaginal mesh. So to show any images or consult with
10 them would have no benefit.

11 BY MR. COMBS:

12 Q. So is the answer that you didn't
13 show any of the photographs from DM7 to DM10 to a
14 neuropathologist?

15 A. I just gave you an answer, full
16 answer.

17 Q. Is the answer no? You gave me a
18 long answer but you didn't answer whether you did or
19 didn't?

20 A. I gave you correct answer.

21 Q. Did you consult with a
22 neuropathologist regarding DM7 to DM10, yes or no?

23 MR. THORNBURGH: Objection.

24 THE DEPONENT: I gave you correct

1 answer.

2 BY MR. COMBS:

3 Q. Yes or no?

4 MR. THORNBURGH: He's answered this
5 question.

6 THE DEPONENT: I gave you correct
7 answer.

8 BY MR. COMBS:

9 Q. Is the answer no?

10 A. The answer is there would be no
11 benefit to showing it to neuropathologist and I explain
12 to you why.

13 Q. And because you believe there was no
14 benefit that means you didn't, right?

15 MR. THORNBURGH: Objection.

16 BY MR. COMBS:

17 Q. You to say yes or no so she can type
18 it.

19 A. Yes.

20 Q. Did you count the nerve density for
21 any sections of the sample for Ms. Massey?

22 A. Don't know if I completed the
23 synoptic notes or not. I could have. I don't remember
24 now.

1 Now, with all this nerve density just
2 recently we published an article comparing hernia
3 meshes explanted for recurrence and for pain. And I
4 figure out that those which were explanted for pain had
5 much higher nerve density. And when I checked, it was
6 just preliminary check, with transvaginal meshes all of
7 the explants I had had nerve density higher than those
8 hernia meshes which developed pain.

9 So now all of these meshes they fall
10 into category of at the risk for pain if you can see
11 the nerve density. So measuring nerve density from
12 this point is not as beneficial as I thought it could
13 be initially. But with this new data I mean it's clear
14 that all of them are at risk of pain.

15 So, as I said, you can take any of the
16 specimens, nerve density is beyond what would be
17 required to develop pain, at least that's what the
18 scientific data shows.

19 Q. Did you prepare a synoptic report
20 for this case? I wasn't provided one so I assume the
21 answer is no.

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: I don't remember now.

24

1 BY MR. COMBS:

2 Q. If you had prepared one would you
3 have provided it to us?

4 A. I can provide it. I just need to
5 print it out from St. Michael's Hospital system.

6 Q. I mean is it -- if it's completed
7 did you not provide it to counsel?

8 A. They were sent -- some of them were
9 sent. I mean, I can repeat it. I can do it -- it's my
10 notes. It's not my report. It just copies whatever I
11 provided.

12 MR. THORNBURGH: So I think what he's
13 saying is that he's going to go to St. Michael's and
14 see if there's a synoptic report, and if there is one
15 he'll produce it.

16 THE DEPONENT: That's correct.

17 BY MR. COMBS:

18 Q. Alright. Well there hasn't been one
19 provided to us in this case?

20 A. I'll check. If it's there I will
21 provide -- I will provide all of the synoptics I
22 completed by this date for wave 1 specimens.

23 Q. And I just want to make sure that I
24 understand. Do you believe there are synoptic reports

1 for wave 1 specimens that you haven't provided?

2 MR. THORNBURGH: Objection.

3 THE DEPONENT: I did not copy them on
4 USB drives. If you want them I can give to them.

5 BY MR. COMBS:

6 Q. So they're completed but not
7 provided to us?

8 MR. THORNBURGH: So what he's saying, in
9 fact what he said multiple times, is he doesn't know.
10 He's completed some synoptic reports for some wave 1
11 but he is not sure if he's got one for this plaintiff.
12 And he'll go to St. Michael's and see if there's a
13 synoptic report and produce it Monday?

14 THE DEPONENT: Monday, yeah sure. I can
15 do it Monday.

16 BY MR. COMBS:

17 Q. Did anybody ask you to provide
18 those?

19 A. No, because they are internal
20 documentation of St. Michael's. I just track data and
21 do my research on them. My opinions are in this
22 report.

23 Actually I do synoptic reports after the
24 expert report. I go through the expert report and I

1 see what I've already done and then I copy it and then
2 I add extra measurements, which I don't need to
3 formulate my opinions. It's research. It's internal
4 documentation of St. Michael's Hospital. It's a
5 duplication of whatever is in the expert report
6 already.

7 Q. Did you score the foreign body
8 reaction for Ms. Massey?

9 A. Again, I can check if it was -- if I
10 completed synoptic report I did, but now I don't
11 remember if I completed the synoptic report.

12 Q. I'm not sure if you did or didn't
13 answer this question so let me just ask it again. I
14 asked you if you had counted the nerve density for
15 Ms. Massey. And I don't think you answered that
16 question. Do you know whether you counted the nerve
17 density?

18 A. I answered that question. As I
19 said, if I completed synoptic notes it was counted, if
20 I didn't I didn't count.

21 Q. As we sit here today you don't
22 remember whether you did or didn't?

23 A. That's correct. And I told you why,
24 because at this point it's -- well, at any point it was

1 not basis of my opinions.

2 Q. So at the trial of Ms. Massey's case
3 there will be no testimony offered by you regarding
4 nerve density?

5 MR. THORNBURGH: Objection.

6 THE DEPONENT: Just a general
7 description, as I told you. The testimony will be that
8 nerve density within transvaginal explanted meshes is
9 so high that all of them are at risk for development of
10 pain.

11 BY MR. COMBS:

12 Q. And you told us earlier that's based
13 upon your comparison to hernia explants in the hernia
14 paper that you recently published?

15 A. Including that paper, but there is
16 more to that. There is large scientific data and
17 research in the mesh explants.

18 MR. COMBS: And, Dan, you know, and
19 we've tried not to go into general issues but I'm going
20 I have to ask him this now since he's the one that
21 brought it up.

22 MR. THORNBURGH: He's been deposed
23 multiple times on his scientific opinions concerning
24 nerve density.

1 MR. COMBS: Well, he's never been
2 deposed on that paper he said he just published.

3 MR. THORNBURGH: He has been deposed
4 because it was an abstract before it became published.
5 And I've sat through depositions where he's been
6 deposed on the exact same data.

7 MR. COMBS: I was at his last deposition
8 and it wasn't in this litigation.

9 MR. THORNBURGH: Well, the depositions
10 where I've covered him you haven't been there. Burt
11 Snell was there and Burt Snell asked him questions
12 about it, or could have asked him questions about it.

13 MR. COMBS: What case was that?

14 MR. THORNBURGH: I think Bilieu [ph].

15 THE DEPONENT: That paper was accepted
16 in the fall. An abstract was accepted long before
17 that. So --

18 MR. THORNBURGH: You guys have had that.

19 THE DEPONENT: Recently it doesn't mean
20 yesterday.

21 BY MR. COMBS:

22 Q. Well are there any -- is the basis
23 of your opinion for Ms. Massey's case are there any
24 asymptomatic vaginal explants that you are comparing

1 the nerve density to?

2 MR. THORNBURGH: Objection.

3 THE DEPONENT: To this date I was
4 checking if I have asymptomatic or painless -- or
5 patients who did not complain or did not report pain
6 which was entered in the record. The number was so
7 small that statistically would be difficult to compare.
8 I mean it would be probably invalid the power of that
9 study. Because most, over 90 percent, of women
10 complain of some degree of pain. It's just -- because
11 the number is so small who do not complain that when I
12 try to compare data I would never reach a P value.

13 BY MR. COMBS:

14 Q. Your 90 percent number --

15 MR. THORNBURGH: Hold on a second, Phil.
16 This is beyond the scope of the agreement. Don't try
17 to act like this is some new thing. You had an
18 opportunity to ask him questions about this same data
19 last time you deposed him. Burt asked him questions
20 about this.

21 MR. COMBS: Last time I deposed him it
22 was a case specific deposition in the Carolino [ph]
23 case.

24 MR. THORNBURGH: So is this. This is a

1 case-specific deposition in this case.

2 MR. COMBS: Dr. Iakovlev is the one that
3 is bringing it up.

4 MR. THORNBURGH: No, you asked him.

5 THE DEPONENT: There was consolidated
6 deposition. It was general. The data was there at the
7 time. All of these questions could have been asked at
8 consolidated deposition.

9 MR. THORNBURGH: I'm not going to allow
10 it, Phil.

11 MR. COMBS: Alright. You will live by
12 the same agreement.

13 MR. THORNBURGH: What's that? Yeah, I
14 will live by the same agreement. I know that. Of
15 course. I don't violate agreements.

16 MR. COMBS: Well, if you think I
17 violated an agreement by asking a follow-up question
18 about an issue that Dr. Iakovlev testified about you're
19 welcome to take any action you want about that.

20 MR. THORNBURGH: You were doing to best
21 you could to try to sneak in some general questions.
22 And I've given a lot of latitude to both you and to
23 Andy.

24 MR. COMBS: You haven't to me.

1 MR. THORNBURGH: Yes I have. Andy asked
2 general questions for 15 or 20 minutes yesterday.

3 MR. COMBS: Well, that wasn't me.

4 MR. THORNBURGH: He's your colleague.

5 MR. COMBS: Well, we'll let the record
6 reflect what it reflects on that. I wasn't here.

7 BY MR. COMBS:

8 Q. Dr. Iakovlev, in any of the slides
9 that you examined for Ms. Massey, did you see any mesh
10 filaments within nerve ganglia?

11 A. I don't think I saw any nerve
12 ganglia. Let me check if I saw any nerve ganglia. No,
13 it doesn't -- I didn't describe nerve ganglia so I did
14 not see them.

15 Q. And no staining with PGP9.5 or
16 neurofilament?

17 MR. THORNBURGH: Objection.

18 THE DEPONENT: No.

19 BY MR. COMBS:

20 Q. Dr. Iakovlev, I want to ask you now
21 about the photographs that are labelled DM11a through
22 DM14. So just collectively what do those photographs
23 represent and then I'll ask you about each one.

24 A. They represent a long-established

1 phenomenon that polypropylene degrades, in line with
2 the Ethicon studies. That would be a summary.

3 Q. For any of these photographs DM11a
4 through DM14, will you be able to tell me which slide
5 they came from?

6 MR. THORNBURGH: Objection.

7 THE DEPONENT: I wouldn't because it
8 doesn't matter.

9 BY MR. COMBS:

10 Q. But can you?

11 A. I just gave you an answer.

12 Q. You said you wouldn't.

13 A. I wouldn't be able.

14 Q. Alright.

15 MR. THORNBURGH: He just answered.

16 MR. COMBS: Let's go off the record for
17 a second

18 --- Off the record at 9:20 a.m.

19 --- Back on the record at 9:20 a.m.

20 BY MR. COMBS:

21 Q. Dr. Iakovlev, for any of the
22 photographs that are from DM11a to DM14, can you tell
23 us from what fragment of the sample that those came
24 from?

1 MR. THORNBURGH: Objection.

2 THE DEPONENT: Well, although it's an
3 irrelevant question I wouldn't be able to answer that
4 because it's irrelevant.

5 BY MR. COMBS:

6 Q. Okay.

7 A. And I wasn't focusing on the fact
8 which fragment it was coming from.

9 Q. For any of the photographs that are
10 from DM11a to DM14 can you tell us from what part of
11 Ms. Massey's body that that piece of tissue came from?

12 MR. THORNBURGH: Objection.

13 THE DEPONENT: Vagina.

14 BY MR. COMBS:

15 Q. Anything more specific than that?

16 A. Like postal code? No.

17 Q. I apologize, I didn't hear what you
18 said.

19 A. I cannot be more specific. I mean,
20 there is no landmarks or something like I said like
21 postal code that we use. I mean, that's -- I don't
22 understand. How can I point? What would be the
23 reference? Anatomical landmark? You're asking the
24 question which is impossible to answer.

1 Q. Alright. So at the trial of this
2 case you will not provide any testimony stating that
3 any of the photographs that are from DM11a to DM14 come
4 from any specific portion of Ms. Massey's vagina?

5 MR. THORNBURGH: Other than the vaginal
6 wall. He just testified to that.

7 MR. COMBS: Yeah, okay.

8 BY MR. COMBS:

9 Q. Vaginal wall, that's fine. If it
10 can be narrowed down any more than that tell me and if
11 not we'll move on.

12 A. As a trained physician and a
13 pathologist that description of "vaginal wall" is
14 sufficient. And that's as far as I will go. I can't
15 -- it's somewhere vaginal wall. From the apex by
16 explanting surgeon and doesn't have to be more
17 specific.

18 Q. Let's turn now to DM11a and DM11b.
19 What is it you plan to tell the jury about those
20 photographs?

21 MR. THORNBURGH: You want A through B?

22 BY MR. COMBS:

23 Q. I said DM11a and DM11b.

24 MR. THORNBURGH: Objection.

1 THE DEPONENT: This is a very thick
2 degradation layer. It's so thick it started cracking
3 along the surface or along the interface between the
4 degradation core right through the degradation layer.
5 This is a remarkable example of -- which doesn't happen
6 that often. It's brittle.

7 BY MR. COMBS:

8 Q. Anything else?

9 MR. THORNBURGH: Objection.

10 THE DEPONENT: I can say many things if
11 you ask. I don't understand what -- I mean, as I said
12 I can give you a lecture about polypropylene
13 degradation.

14 BY MR. COMBS:

15 Q. I want to hear the lecture you're
16 going to give the jury about this photograph at the
17 trial?

18 MR. THORNBURGH: Objection.

19 THE DEPONENT: I thought we agreed that
20 I will give you a summary of the picture.

21 BY MR. COMBS:

22 Q. Dr. Iakovlev, I didn't agree to
23 that. If you're going to talk about this photograph at
24 the trial I want to know what it is you're going to say

1 MR. THORNBURGH: Objection.

2 MR. COMBS: If you think that's not a
3 fair thing to ask an expert then you're welcome to
4 object all you want, Dan.

5 BY MR. COMBS:

6 Q. If you're going to talk about this
7 photograph and you're going to tell the jury about this
8 photograph I just want to know what you're going to say
9 about it. Tell us.

10 MR. THORNBURGH: Objection.

11 THE DEPONENT: As I said, I can describe
12 everything which I've done in my publications and this
13 would be a summary for general opinions.

14 Specifically for this photograph I gave
15 you a summary. This is a good example of really thick
16 degradation bark which cracks along the interface. It
17 shows brittleness.

18 BY MR. COMBS:

19 Q. How thick is the bark?

20 A. This one is thick. I think this one
21 is getting close to 7 microns, 6, 7.

22 Q. And when you give us that number of
23 6 to 7 microns is that based upon a -- any type of
24 measurement or is that just a visual assessment?

1 MR. THORNBURGH: Objection.

2 THE DEPONENT: Well today it's a visual
3 assessment because I measured it so many times,
4 hundreds of times, probably thousands by now, so I can
5 appreciate. But what I do is I use an eye-piece
6 micrometer in the microscope.

7 BY MR. COMBS:

8 Q. As we sit here today do you remember
9 whether you conducted a measurement of this degradation
10 bark?

11 MR. THORNBURGH: Objection.

12 BY MR. COMBS:

13 Q. That is probably not a very good
14 question.

15 MR. THORNBURGH: Objection. He just
16 gave you one.

17 BY MR. COMBS:

18 Q. But have you done any measurement
19 other than just your visual assessment?

20 A. It's the same thing. If I do
21 specific numbers I record them in my notes.

22 Q. In the synoptic report?

23 A. In the synoptic report. Because I
24 do multiple measurement and I select the median number

1 and I enter it there.

2 Q. You talked about cracking along the
3 interface and I wasn't sure what you meant by that.

4 A. That's exactly what I meant. This
5 longitudinal crack.

6 Q. Okay.

7 A. Because usually the tracking is
8 perpendicular to the interface or to the surface. Now
9 it's running along, and not just along it's -- usually
10 it's a peeling off of degradation bark from the core,
11 but in this case it cracked through the degradation
12 bark. It's so thick that it delaminated and there are
13 two layers of degradation bark now.

14 Q. And just so that the record is
15 clear, could you take a highlighter or Sharpie or
16 something and just mark that so the record will be
17 clear?

18 A. Sure.

19 Q. So you've drawn the green line along
20 what you described as a longitudinal crack?

21 A. Yes.

22 Q. Thank you.

23 A. Longitudinal in terms of parallel to
24 the surface or parallel to this interface. Because

1 another term "longitudinal" is frequently used.
2 Longitudinal to the axis of the fiber, so that's
3 different. I'm just trying my best to describe the
4 position.

5 Q. In any event, you took the
6 highlighter and you marked what you're describing?

7 A. Okay.

8 Q. So regardless of the descriptive
9 term I think the record is clear what you're referring
10 to.

11 A. Okay.

12 Q. Now, what is it that you plan on
13 telling the jury about 11b?

14 MR. THORNBURGH: Objection.

15 THE DEPONENT: 11b is the same field,
16 the same fiber in polarized light. And you can see
17 that it's -- although it has reduced refractile
18 properties or birefringence it's still much brighter
19 and different color than tissue proteins.

20 BY MR. COMBS:

21 Q. Anything else?

22 A. No.

23 Q. DM12.

24 A. This is a separated degradation

1 bark. The nondegraded core floated away during
2 processing and degradation bark remained adherent to
3 the tissue because of its rough surface and adherence
4 to the surrounding tissues. It shows cracking,
5 indicating its brittleness, and it still retains its
6 optical properties of polypropylene.

7 Q. Alright. DM13, what do you plan on
8 telling the jury about that photograph?

9 A. This is an interesting phenomenon.
10 So you can see that there were free particles in the
11 tissue. They have their own nondegraded core and
12 degradation layer and they are embedded in the tissue.
13 So these particles were introduced into the body with
14 the mesh during surgery. So there was dust or
15 fragments of fibers on the mesh. It wasn't clean.
16 This was probably defect of some manufacturing process
17 when the particles still remain adherent to the mesh.
18 And they just became embedded and became degraded the
19 same way as nonfragmented fibers.

20 Q. And what is the basis for your
21 opinion that these particles were implanted at the time
22 of the original surgery?

23 A. Well, first of all they have
24 macrophages and they are embedded in tissue, that's the

1 first feature. The second feature, they have their own
2 nondegraded core and degradation layer outside. So
3 they had to be in the body in that shape for as long as
4 the fiber -- if you check the thickness of the
5 degradation layer. Like, if you compare this
6 degradation layer and this. So if you compare
7 thickness of the degraded layer it's comparable.

8 So judging by the thickness the
9 fragments and the mesh fibers were degrading in
10 parallel. I mean, they were implanted at the same
11 time, they stayed there and they just kept degrading so
12 the thickness was growing.

13 Q. Dr. Iakovlev, can you hand me
14 Exhibit 1 so I can see the marks that you've made?

15 Alright. So that the record is clear on
16 this, is it alright if I mark the top one as "A" and
17 the bottom one as "B"? Or you can do it if you want.

18 A. Sure, go ahead.

19 Q. So we're on page 25 of Exhibit 1.
20 And you had made two drawings on that. And I've marked
21 them as "A" and "B".

22 MR. COMBS: And, Dan, I'm going to come
23 around so we can talk about this for a second?

24 MR. THORNBURGH: Let me see the markings

1 that you've made please.

2 MR. COMBS: Sure.

3 MR. THORNBURGH: So you're marking the
4 fiber as "A" and then the particles that fell off
5 during implantation as "B"?

6 MR. COMBS: Well, that's not my
7 interpretation of it but that's Dr. Iakovlev's
8 testimony about it, yes.

9 BY MR. COMBS:

10 Q. So, Dr. Iakovlev, I just want to
11 make sure the record is clear on this point. What is
12 it that you have marked in "A"?

13 A. This is a separated degradation bark
14 from the fiber.

15 Q. And the three lines that you've
16 drawn in relation to A is that your measurement of the
17 width of it?

18 MR. THORNBURGH: Objection.

19 THE DEPONENT: Thickness.

20 BY MR. COMBS:

21 Q. Thickness, okay. And what is it
22 that you've drawn in relation to B?

23 A. This is indicating thickness of the
24 degradation layer on the loose fragments.

1 Q. And what is it you're using to
2 measure the degradation layer of the loose fragment on
3 B?

4 A. I'm not measuring it, I'm showing
5 the thickness.

6 Q. And what are you using to define the
7 thickness? Just that you see the blue or --

8 MR. THORNBURGH: Objection.

9 THE DEPONENT: Yeah.

10 BY MR. COMBS:

11 Q. I just wonder what are all the
12 things you're relying on to say that is the thickness?

13 MR. THORNBURGH: Objection.

14 THE DEPONENT: Blue. The color.

15 Degraded polypropylene absorbs dyes, that's why you can
16 measure it.

17 BY MR. COMBS:

18 Q. So your testimony is that because
19 you can see the thickness of blue that that would
20 indicate that that's the thickness of the degradation
21 layer?

22 A. Yes. In any case I mean both have
23 blue color, both have approximately the same thickness.

24 Q. Anything else that you're relying on

1 to say that the thickness of the degradation is the
2 same between A and B?

3 MR. THORNBURGH: Objection.

4 THE DEPONENT: The usual assessment.
5 And I said "approximately" the same. I did not say
6 exactly the same.

7 BY MR. COMBS:

8 Q. Okay. I mean I wasn't -- if I
9 misuse your words I apologize. So the testimony is
10 that they're approximately the same?

11 A. Yeah.

12 Q. For the sample that's in photograph
13 25 are you able to tell me what fragment of the
14 pathological sample that came from?

15 MR. THORNBURGH: Objection.

16 THE DEPONENT: I think you asked that
17 question specifically for this. Well, it was not my
18 purpose to memorize and provide this because it
19 wouldn't contribute. Would be meaningless.

20 BY MR. COMBS:

21 Q. So is the answer no?

22 A. I gave you an answer. It wasn't my
23 purpose and I cannot say now.

24 Q. Can you tell me which slide this

1 comes from?

2 MR. THORNBURGH: Objection.

3 THE DEPONENT: Same answer. I can tell
4 you because it was not my purpose to memorize or to
5 record it.

6 BY MR. COMBS:

7 Q. Can you tell me where in
8 Ms. Massey's vagina this came from with any more
9 specificity than vaginal wall?

10 MR. THORNBURGH: Objection.

11 THE DEPONENT: No more specificity
12 required. I cannot tell you.

13 BY MR. COMBS:

14 Q. Did Ms. Massey have any revision
15 surgeries between her implant and the explant for which
16 you have pathology samples?

17 MR. THORNBURGH: Objection.

18 THE DEPONENT: Yes, there was excision.

19 BY MR. COMBS:

20 Q. And are you able to --

21 MR. THORNBURGH: And the reason for my
22 objection is because it was a cop out.

23 --- Off the record at 9:37 a.m.

24 --- Back on the record at 9:38 a.m.

1 BY MR. COMBS:

2 Q. Are you able to tell us the location
3 of the first revision that Ms. Massey had?

4 A. Somewhere in the apex.

5 Q. Any more specificity than that?

6 A. No.

7 Q. Dr. Iakovlev, what is it that you
8 plan on telling the jury about the photograph in DM14?

9 MR. THORNBURGH: Objection.

10 THE DEPONENT: DM14?

11 BY MR. COMBS:

12 Q. Yes, sir.

13 A. There is another small, loose
14 particle in the tissue. That one is very small. It's
15 birefringent. It appears to be embedded in the tissue.

16 Q. Are DM13 and DM14 pictures of the
17 same tissue? I probably didn't ask that very well.
18 But here's what I ask, is it your testimony that DM14,
19 where you describe a loose particle in the tissue, that
20 that's different than DM13?

21 A. Yes, these particles are different.

22 Q. Okay.

23 A. So what I think could have -- what
24 my opinion would be of interpretation of this particle

1 that this is a much smaller particle. DM13 shows
2 larger particle which have been in the body for long
3 time because degradation layer is so thick.

4 Now, regarding the particle on DM14 it's
5 a very small one. For that one the likely explanation
6 would be that part of degradation bark became dislodged
7 during previous excision, because it's just one small
8 fragment. The bark cracked and became embedded in the
9 tissue. It's a bit different because the entire
10 particle is degraded.

11 Q. I just want to make sure I
12 understand. When you say the entire particle is
13 degraded you're talking about DM14?

14 A. Yes.

15 Q. And so --

16 A. It has some color into it but,
17 again, it's so small it would be difficult to draw firm
18 conclusions about the origin of that particle.

19 Q. How big is that particle
20 approximately?

21 A. That particle is roughly 6, 7
22 microns long and only 1 micron thick.

23 Q. If we're looking at the bottom
24 picture on DM14 approximately how far would what you

1 described as the particle be from what you have
2 described as the degradation layer?

3 A. Could you repeat the question?

4 Q. Yeah. I'm trying to figure out how
5 many microns from here to here?

6 A. About 30 microns, 25.

7 Q. Anything else that you plan on
8 telling the jury about DM14?

9 MR. THORNBURGH: Objection.

10 THE DEPONENT: Mostly it's a good
11 example of degradation bark which peeled off the fiber.
12 I mean that's one of the good examples.

13 BY MR. COMBS:

14 Q. How thick is the degradation layer
15 in this picture?

16 A. Again without a micrometer I can
17 only estimate. My estimate would be 6, 7 microns.

18 Q. Let's see if we can shortcut some of
19 this. If I ask you questions regarding the location of
20 this I'm going to ask you a compound question and see
21 if we can move on here.

22 If I ask you questions about what
23 fragment this was from, what slide this was from and
24 where in Ms. Massey's body this piece of tissue was

1 from would your answers be the same as they were in
2 regard to DM13?

3 A. Yeah. It's from one of the
4 fragments of the same jar.

5 MR. COMBS: This is a good place to take
6 a break.

7 --- Break taken at 9:45 a.m.

8 --- Upon resuming at 10:05 a.m.

9 BY MR. COMBS:

10 Q. Dr. Iakovlev, you have listed on
11 your chronology that Ms. Massey had a revision on
12 December 29, 2006. You do not have any pathology from
13 that revision do you?

14 A. I don't. From what I understand
15 there was no pathology in the examination at that time.

16 ---EXHIBIT NO. 2: Pathology Report
17 prepared by Dr. Brownell.

18 Q. And the pathology that you have is
19 from the December 3rd, 2010, sample which is what we
20 marked as Exhibit 2?

21 A. That's correct.

22 Q. Dr. Iakovlev, there were no
23 depositions on Massey Exhibit 3. Is it accurate that
24 you did not review any depositions in this case?

25 A. Yes.

26 Q. So that would include you haven't

1 read the deposition of the plaintiff or of any of the
2 treating physicians?

3 A. That's correct.

4 Q. Have you reviewed any expert reports
5 submitted by the plaintiff or the defense regarding
6 Ms. Massey's case?

7 A. No.

8 Q. Dr. Iakovlev, during this case you
9 have not had any contact with any of Ms. Massey's
10 treating physicians have you?

11 A. That's correct.

12 Q. You were not present in the
13 operating room for the implant or either of the two
14 revisions were you?

15 A. That's correct.

16 Q. Never saw the mesh in vivo in Ms.
17 Massey's case?

18 A. That's correct.

19 Q. Played no role in preparing the
20 specimen for pathological review at the East Side
21 Surgery Center?

22 A. That's correct.

23 Q. Do you know anything about the
24 protocol for preparing the specimen from East Side

1 Surgery Center?

2 A. From the microscopic examination the
3 histology was in acceptable range. So my conclusion is
4 that their protocol was within acceptable standards.

5 Q. The specimen would have been handled
6 with forceps wouldn't it?

7 A. At one point probably likely.

8 Q. Fixed in formalin?

9 A. That's correct.

10 Q. Dehydrated?

11 A. That's correct.

12 Q. Cleaning agents added to it?

13 A. What do you mean "cleaning"?

14 MR. THORNBURGH: Objection.

15 BY MR. COMBS:

16 Q. Was xylene added to it?

17 A. Yes, but it's not cleaning agent.

18 Q. Tell me the function of xylene?

19 A. Xylene would have been added there.

20 Q. And xylene would have been added to
21 the sample?

22 A. Tissue is soaked in xylene as one of
23 the steps.

24 Q. And I apologize, I made a mental

1 typo. I said cleaning instead of clearing.

2 A. Oh, okay.

3 Q. And then embedded in paraffin and
4 then microtomed?

5 A. That's correct.

6 Q. And you told us that you received
7 four slides in this case, is that correct?

8 MR. THORNBURGH: Objection.

9 THE DEPONENT: I received stained and
10 unstained slides. I didn't type it in -- I can check
11 with chain of custody form what I received. There were
12 slides of four blocks.

13 BY MR. COMBS:

14 Q. Just give me a second and I'll pull
15 up the chain of custody. Here you go, Doctor?

16 A. Actually I can answer your question
17 regarding what block the mesh specimen is coming from.

18 Q. Okay.

19 A. It was described as and was
20 submitted in cassette A4. If you really want an answer
21 that's an answer.

22 Q. Alright. And how many slides did
23 you receive?

24 A. So I received four slides. Wait a

1 second, I think one chain of custody form didn't scan
2 for whatever reason. I would have to check, double
3 check. There could have been two chain of custody
4 forms. Two slides in one shipment and two slides in
5 the other one.

6 Q. Will you review that and if you find
7 an additional chain of custody form just provide it to
8 Mr. Thornburgh?

9 A. Because I remember seeing it. From
10 what I remember they came in two different packages.
11 For whatever reason they became separated, that's my
12 recollection. Yes, my recollection is that they were
13 separated. This is one of the chain of custody forms.

14 Q. Okay. And so you believe for
15 Ms. Massey's case there was another chain of custody
16 form?

17 A. Yeah. My recollection is I got
18 complete case but it was separated into two shipments.

19 Q. And if there is a second chain of
20 custody form will you provide that to Mr. Thornburgh so
21 he can provide it to us?

22 A. I will.

23 Q. Now, were any portions of this
24 sample tested with any analytical chemistry?

1 A. No.

2 Q. Was your examination limited to the
3 light microscope?

4 A. Yes.

5 Q. Did you perform any other tests of
6 any type?

7 MR. THORNBURGH: Objection.

8 THE DEPONENT: No, just histology.

9 BY MR. COMBS:

10 Q. Will you be testifying to the jury
11 in this case that Ms. Massey's mesh migrated?

12 A. Some parts of the mesh migrated. I
13 cannot tell you the degree but my testimony will be
14 that mesh can migrate and some parts migrated. I
15 cannot tell you the degree of migration. Is it
16 microns, millimeters or centimeters?

17 Q. And can you tell me which parts of
18 Ms. Massey's mesh migrated?

19 A. No, I cannot.

20 Q. So you will not be able to tell me
21 how far it migrated or which portion of it migrated?

22 A. No. This is conclusion based on my
23 knowledge, experience and research in implantable
24 meshes. Because I know that meshes can migrate

1 therefore I assume that all of them migrate to a
2 degree. Is it micron, millimeters or centimeters? It
3 depends on the case. Some parts migrate more and some
4 parts migrate less.

5 Q. Just this case, Donna Massey, can
6 you tell me how far it's your opinion that it migrated?

7 A. This case is not an exception. I
8 cannot tell you the degree of migration of the mesh but
9 I can testify to reasonable degree of medical certainty
10 some parts of the mesh migrated.

11 Q. Dr. Iakovlev, will you be testifying
12 in this case that Ms. Massey had any arteries or
13 vessels that were obliterated?

14 A. I did not see it in the slides but I
15 cannot rule it out because I know that it can happen
16 around the implanted meshes.

17 Q. There are no depictions in any of
18 the photographs that you prepared and attached to your
19 report of any obliterated vessels or arteries are
20 there?

21 A. That's correct.

22 Q. And as we sit here today do you
23 remember observing any obliterated vessels or arteries
24 in any portions of the slides that you reviewed?

1 A. No.

2 Q. Dr. Iakovlev, will you be making any
3 claim in this case that Ms. Massey has suffered from
4 any urinary symptoms as a result of the mesh?

5 A. Now this is the clinical part.
6 Clinical symptoms I'm not making opinions or claims. I
7 just copy what was in the records. You have to give me
8 a second to go through my summary. (Witness looking at
9 summary.) No.

10 Q. Dr. Iakovlev, I want to ask you some
11 questions about the clinico-pathological correlation
12 that you performed in this case. You've never examined
13 Ms. Massey have you?

14 MR. THORNBURGH: Objection.

15 THE DEPONENT: That's correct.

16 BY MR. COMBS:

17 Q. And never talked to Ms. Massey?

18 A. That's correct.

19 Q. You've had no doctor-patient
20 relationship with Ms. Massey have you?

21 MR. THORNBURGH: Objection.

22 THE DEPONENT: I examined her specimen,
23 that's the extent of my involvement with her.

24

1 BY MR. COMBS:

2 Q. And you examined that specimen as
3 part of the legal process didn't you?

4 A. Yes, that's correct.

5 Q. In this case it's my understanding
6 that and you told us earlier that you plan to offer
7 testimony regarding degradation, is that correct?

8 A. That's correct.

9 Q. And in your report you talk about
10 the brittleness of the mesh. And I just want to know
11 how you appreciated that brittleness?

12 A. By changes of behavior in the
13 histological slides. So the nondegraded core does not
14 crack and degradation bark cracks.

15 Q. Just based upon your observations
16 from the slides?

17 A. That's correct.

18 Q. Dr. Iakovlev, earlier we introduced
19 as Exhibit 2 the pathology report prepared by
20 Dr. Brownell. Dr. Brownell made no findings that Ms.
21 Massey suffered from pain or dyspareunia did he?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: Dr. Brownell is a
24 pathologist. Pain and dyspareunia are clinical

1 diagnosis. I wouldn't expect him and he didn't.

2 BY MR. COMBS:

3 Q. And Dr. Brownell made no findings
4 regarding degradation in his pathology report did he?

5 A. He didn't do any testing for
6 degradation. He did not describe if he did either way.

7 Q. And Dr. Brownell examined Ms.
8 Massey's slides under the microscope didn't he?

9 A. That's correct.

10 Q. And that's the same thing you did
11 isn't it?

12 A. That's correct.

13 Q. And you did not do any additional
14 testing other than examining that slide under the
15 microscope did you?

16 A. That's correct.

17 Q. And based upon his observation Dr.
18 Brownell did not draw any conclusions that the mesh had
19 degraded did he?

20 MR. THORNBURGH: Objection.

21 THE DEPONENT: I don't know it doesn't
22 say either way.

23 BY MR. COMBS:

24 Q. You do not know whether Ms. Massey's

1 treating physicians have drawn any conclusions
2 regarding whether the mesh degraded do you?

3 A. I don't.

4 Q. Dr. Iakovlev, will you be offering
5 testimony at the trial of this case regarding the
6 causes of Ms. Massey's pain and dyspareunia?

7 A. Yes, I will.

8 Q. And what will your testimony be
9 regarding the causes of pain and dyspareunia in Ms.
10 Massey's case?

11 A. Yes, I will. And I will describe
12 the morphological changes around the mesh which are
13 related to pain symptoms.

14 Q. Anything else?

15 A. That's a summary.

16 Q. Dr. Iakovlev, you do not have any
17 medical records for Ms. Massey after 2013 do you?

18 A. If it's not on the thumb drive I
19 didn't. My last entry is 2013.

20 Q. Do you know whether Ms. Massey
21 currently has dyspareunia?

22 A. I don't.

23 Q. Do you know whether Ms. Massey's
24 partner currently has any pain with intercourse?

1 A. I don't.

2 Q. In your summary at page 5 you state
3 kind of in the middle, "Dyspareunia is mild and
4 positional at best." What does it mean "positional at
5 best"?

6 A. I did not state that, I copied it
7 from the records.

8 Q. What does it mean?

9 A. You have to ask the provider who
10 entered it.

11 Q. You would not be able to tell us as
12 we sit here today what that means?

13 A. I can give you my interpretation but
14 I mean if you really want to know what the provider
15 meant you have to ask the provider.

16 MR. COMBS: Let's take a break.

17 --- Break taken at 10:28 a.m.

18 --- Upon resuming at 10:31 a.m.

19 BY MR. COMBS:

20 Q. Dr. Iakovlev, I asked you earlier
21 about your reference in your chronology about
22 positional dyspareunia in 2013 and you told me that's
23 just what the medical record said. I want to ask you
24 now about the location of Ms. Massey's pain during

1 intercourse. Are you able to put on the diagram for me
2 on Exhibit 4 or 5 where the location of her pain was
3 during intercourse?

4 MR. THORNBURGH: Objection.

5 THE DEPONENT: Well we can begin that
6 the diagram doesn't represent the state of the patient.
7 It's a hypothetical patient with uterus intact.

8 BY MR. COMBS:

9 Q. Sure. Well if you want you can
10 cross out the uterus. So would you be able to put on
11 any location on either 4 or 5 the location of Ms.
12 Massey's pain during intercourse?

13 MR. THORNBURGH: Objection.

14 THE DEPONENT: I'm afraid I cannot mark
15 anything on that diagram without misrepresenting Ms.
16 Massey.

17 BY MR. COMBS:

18 Q. Alright. Same question for Ms.
19 Massey's husband. Are you able to point out for us on
20 a diagram where the mesh was that you say was causing
21 him to have partner dyspareunia during intercourse?

22 MR. THORNBURGH: Objection.

23 THE DEPONENT: My answer would be the
24 same. Since the diagram doesn't represent Ms. Massey I

1 cannot point to the area. And this would be best to be
2 asked of the treating physician who was examining her
3 at the time.

4 BY MR. COMBS:

5 Q. It's your understanding, Dr.
6 Iakovlev, that the implant in this case occurred on
7 August 22nd, 2005?

8 A. Can you repeat the question?

9 Q. Is it your understanding that the
10 implant in this case occurred on August 22nd, 2005?

11 A. Yes, that's what date was in the
12 record.

13 Q. And the revision for which you don't
14 have the pathology, that would have occurred on
15 December 29th, 2006?

16 A. That's correct.

17 Q. And that would have been
18 approximately four years before the revision for which
19 you do have the pathology, the December 3rd, 2010?

20 A. Approximately, yes.

21 Q. Thank you, Dr. Iakovlev. I don't
22 have any more questions about Ms. Massey's case at this
23 point.

24 DIRECT EXAMINATION BY MR. THORNBURGH:

1 Q. Doctor, I have a couple of follow-up
2 questions. I'll be as brief as possible.

3 Dr. Iakovlev, there were some questions
4 by defense counsel concerning a number of the pictures
5 or images, microphotographs, that you took of certain
6 slides that you received. Do you recall that
7 questioning?

8 A. Yes, I do.

9 Q. And defense counsel asked you which
10 mesh fragment these images were taken from, do you
11 recall that?

12 MR. COMBS: Objection.

13 THE DEPONENT: Yes, I do.

14 BY MR. THORNBURGH:

15 Q. And if I understand your testimony
16 correctly you received some slides, correct?

17 A. That's correct.

18 Q. And they were slides of the mesh
19 that was explanted from Mrs. Massey, correct?

20 A. That's correct.

21 Q. And if you, for example, wanted to
22 -- needed to identify where -- which slide figure DM2
23 came from what could you do?

24 A. I could either check with the

1 pathology report who grossed it, or more accurate
2 assessment would be just to take a slide, look at it
3 and then I can pinpoint exactly where it's coming from.

4 Q. So those slides are labelled?

5 A. Yes.

6 Q. So all you'd have to do is look at
7 the labelled slides and determine where DM2 came from?

8 A. Yeah. I would need pathology
9 report, grossing description and pathology -- and
10 slide.

11 Q. And you provided those slides -- or
12 you mailed those slides to defense counsel or defense
13 counsel's expert pathologist, is that accurate?

14 A. I mailed it to Mr. Snowden.

15 Q. So once Mr. Snowden returns those
16 slides could you easily identify where these images
17 contained within your report were -- which slides those
18 images were taken from?

19 A. Yeah. I can square exactly the area
20 where they were taken from.

21 Q. Is it fair to say that you can
22 easily trace back where those images were taken from
23 once Mr. Snowden returns those slides?

24 A. Yes.

1 Q. And have you requested that
2 Mr. Snowden return those slides to you?

3 A. Yes.

4 Q. Is it your understanding that
5 Mr. Snowden has agreed to return those slides after
6 March 16th?

7 MR. THORNBURGH: Object to form.

8 THE DEPONENT: Hope soon after.

9 BY MR. THORNBURGH:

10 Q. Did you hear that yesterday?

11 A. Yes.

12 Q. Yesterday we had a conversation and
13 Mr. Snowden confirmed that those slides would be
14 returned soon after March 16th, correct?

15 A. That's correct.

16 Q. Is it your understanding that
17 defense counsel and or their experts also received some
18 slides of their own?

19 A. I have to check because some slides
20 were just in one set. Because sometimes they were
21 recuts and sometimes there was just one set of slides
22 which was exchanged.

23 Q. Defense counsel went through your
24 microphotographs that are contained within your expert

1 report and asked you basically a summary of the
2 opinions that you will have regarding each one of these
3 microphotographs at trial. Do you recall that?

4 A. Yes, I do.

5 Q. In addition to your testimony that
6 you provided on cross-examination does figure DM2
7 demonstrate encapsulation of Mrs. Massey's mesh in a
8 dense scar plate?

9 A. That's correct.

10 Q. Does figure DM2 demonstrate bridging
11 fibrosis?

12 A. That's correct.

13 Q. Does figure DM2 demonstrate
14 migration and/or folding of the mesh?

15 A. It does demonstrate folding.

16 Q. And does DM2 demonstrate
17 inflammation?

18 A. It does.

19 Q. Chronic and acute?

20 A. Yes.

21 Q. And are those some of the things
22 that you -- some of the opinions you can share during
23 the trial in this case?

24 A. That's correct. And I can answer

1 more questions as long as you ask. I can talk about it
2 for hours.

3 Q. Does DM2 correlate with the clinical
4 records demonstrating that Mrs. Massey was experiencing
5 erosions?

6 A. That's correct. Demonstrates
7 erosion.

8 Q. Is that another opinion that you can
9 share with the jury regarding DM2?

10 A. That's correct.

11 Q. Does DM2 correlate with the clinical
12 records demonstrating not only erosion but also
13 dyspareunia and hispareunia?

14 A. That's correct.

15 Q. Is that an additional opinion that
16 you can share with the jury at trial concerning DM2?

17 A. That's correct.

18 Q. Defense counsel asked you a number
19 of questions concerning your opinions that there was an
20 infection at the site of the erosion. Do you recall
21 that line of questioning?

22 A. Yes, I do.

23 Q. And defense counsel had suggested in
24 his questioning that none of Mrs. Massey's treating

1 physicians ever diagnosed her with an infection. Do
2 you recall that line of questioning?

3 MR. COMBS: Object to form.

4 THE DEPONENT: I do.

5 BY MR. THORNBURGH:

6 Q. And if you turn in your expert
7 report to, for example, page 3?

8 A. Yes.

9 Q. Strike that. If you turn to page 5
10 to the record from Dr. Croak, October 4th, 2013, do you
11 see that?

12 A. Yes.

13 Q. And do you see about five lines down
14 it says, "Some vaginal discharge that has been ongoing
15 since original mesh was placed. She states it is
16 yellow/brown, not malodorous, not bloody." Do you see
17 that?

18 A. Yes.

19 Q. And did your findings concerning the
20 acute inflammation at the site of the erosion, which
21 transitioned as deeper into the tissue, does that
22 correlate be Dr. Croak's findings of these symptoms?

23 A. Yes, it does. There is discharge
24 and the source of discharge is granulation tissue which

1 formed at the exposure site.

2 Q. Would it be a misrepresentation for
3 defense for Ethicon to suggest that none of Mrs.
4 Massey's treating physicians had recorded these
5 symptoms of infection?

6 MR. COMBS: Object to form.

7 THE DEPONENT: Yes. I mean because
8 granulation tissue forms around chronic wounds.

9 BY MR. THORNBURGH:

10 Q. And did your review of the pathology
11 material that you received confirm the same?

12 A. Yes.

13 MR. COMBS: Object to form.

14 BY MR. THORNBURGH:

15 Q. Figure DM3a on page 13.

16 A. Yes.

17 Q. Does your image in DM3a correlate
18 with the clinical findings of Mrs. Massey's physicians?

19 A. It does.

20 Q. Does it demonstrate an erosion?

21 A. It does.

22 Q. Does it correlate with her reported
23 problems of pus or discharge?

24 A. Yes.

1 Q. Does it correlate with Ms. Massey's
2 report to her physicians of exposed mesh?

3 A. Yes, it does.

4 Q. What about dyspareunia?

5 A. Yes, it does.

6 Q. What about hispareunia?

7 A. It does.

8 Q. What about pain?

9 A. It does.

10 Q. Does DM3a demonstrate inflammation?

11 A. It does.

12 Q. Dense scarring?

13 A. Yes.

14 Q. Infection?

15 A. Yes.

16 Q. Bridging fibrosis?

17 A. Yes.

18 Q. Encapsulation of the mesh and scar
19 tissue?

20 A. Yes.

21 Q. Are these among the opinions that
22 you will share with the jury at trial?

23 A. Yes.

24 Q. Concerning DM3a?

1 A. Yes.

2 Q. Figure DM3b on page 14.

3 A. Yes.

4 Q. Does DM3b also correlate with the
5 clinical findings of Ms. Massey's physicians?

6 A. Yes.

7 Q. Pain?

8 A. Yes.

9 Q. Dyspareunia?

10 A. Yes.

11 Q. Hispareunia?

12 A. Yes.

13 Q. Erosion?

14 A. Yes.

15 Q. Infection?

16 A. Yes.

17 Q. Scarring?

18 A. Yes.

19 Q. Folding of the mesh?

20 A. Yes.

21 Q. Migration of the mesh?

22 A. Yes.

23 Q. Erosion of the mesh.

24 A. Yes.

1 Q. Encapsulation in the scar plate?

2 A. Yes.

3 Q. Bridging fibrosis?

4 A. Yes.

5 Q. The need for additional surgery to
6 remove the mesh?

7 A. Yes.

8 Q. Complications as a result of the
9 mesh?

10 A. Yes.

11 Q. Are those additional opinions that
12 you can share with the jury at the time of trial?

13 A. Yes.

14 Q. DM4 on page 15.

15 A. Yes.

16 Q. Again, does this image
17 demonstrate -- correlate with the clinical findings of
18 Ms. Massey's physicians?

19 A. Yes.

20 Q. Erosion?

21 A. Yes.

22 Q. Infection?

23 A. Yes.

24 Q. Inflammation?

- 1 A. Yes.
- 2 Q. Chronic and acute?
- 3 A. Yes.
- 4 Q. Pain?
- 5 A. Yes.
- 6 Q. Dyspareunia?
- 7 A. Yes.
- 8 Q. Hispareunia?
- 9 A. Yes.
- 10 Q. Bridging fibrosis?
- 11 A. Yes.
- 12 Q. Scarring?
- 13 A. Yes.
- 14 Q. Shrinkage?
- 15 A. Yes.
- 16 Q. Mesh-related complications?
- 17 A. Yes.
- 18 Q. Is that the same for DM5?
- 19 A. That's correct.
- 20 Q. Is that the same for DM6?
- 21 A. Yes.
- 22 Q. Is that the same for DM7?
- 23 A. Yes.
- 24 Q. Is that the same for DM8?

1 A. Yes.

2 Q. Is that the same for -- alright. So
3 for all these images, DM1 through DM8, are those all
4 opinions that you may share with the jury concerning
5 those images?

6 A. That's correct.

7 Q. Page 25.

8 A. Yes.

9 Q. DM13.

10 A. Yes.

11 Q. Of your expert report.

12 A. Yes.

13 Q. Are there macrophages surrounding
14 those particles?

15 A. Yes.

16 Q. Does that demonstrate that the
17 macrophages were attempting to attack and surround
18 those particles?

19 A. Yes.

20 Q. So in addition to the degradation
21 does the presence of that immunological response
22 indicate that those particles had -- were embedded in
23 the tissue and were embedded at the time of
24 implantation?

1 MR. COMBS: Object to form.

2 THE DEPONENT: Yes. They were embedded
3 at -- before excision surgery.

4 BY MR. THORNBURGH:

5 Q. Are those particles experiencing the
6 same immunological or tissue response as the fibers
7 that are also located in DM13?

8 A. That's correct. They have exactly
9 the same behavior. They are attacked by the immune
10 response of the body, and the polypropylene degrades
11 the same way as larger fibers.

12 Q. Is that additional evidence that
13 this material -- these particles is polypropylene?

14 A. Yes, it is.

15 Q. Is that additional opinions that you
16 will be able to share at the trial in this case?

17 A. Yes.

18 Q. And did all of the images that you
19 took from DM1 through DM14 do those images, or your
20 pathological findings relating to those slides that you
21 reviewed, correlate with Mrs. Massey's clinical
22 physicians' diagnosis?

23 MR. COMBS: Object to form.

24

1 BY MR. THORNBURGH:

2 Q. Let me ask a better question. Do
3 your pathological findings correlate with the diagnosis
4 made by Mrs. Massey's physicians who elected or had
5 recommended the removal of this mesh?

6 A. That's correct. I was just looking
7 at these images one more time. This fragment has split
8 so I would like to mark the thickness of the other
9 fragment from here to there, if we want to be really
10 precise.

11 And it appears that this fragment has
12 split so this measure -- I will mark some more
13 measurements just to point -- because the fragments are
14 irregular so -- or triangular. The measurements can be
15 taken from different parts. So I'll just mark other
16 parts for other measurements which can be taken from
17 these images. So this will be more accurate now. If
18 it's flat you can measure anywhere and it's still flat.
19 But if it's triangular it's -- you have to measure
20 sides I guess.

21 Q. I have no further questions.

22 FURTHER CROSS-EXAMINATION BY MR. COMBS:

23 Q. Dr. Iakovlev, you testified in
24 response to Mr. Thornburgh's questioning that the

1 pathological slides showed acute inflammation. In fact
2 the treating pathologist did not make that finding did
3 he?

4 A. He didn't make a description. We
5 cannot say now if he made the finding or not.

6 Q. His finding was chronic inflammation
7 wasn't it?

8 A. No. It's actually misrepresentation
9 what he says. He says, "Mesh with foreign body
10 granulation and chronic inflammation." So he describes
11 inflammation in relation to the mesh. He does not
12 describe inflammation in relation to the exposure site.

13 Q. And made no finding anywhere in this
14 report that any inflammation was acute did he?

15 A. He did not mention the erosion site.
16 He did not give a description. You are correct.

17 Q. Dr. Iakovlev, you -- is it your
18 testimony that Ms. Massey suffered from an infection?

19 A. Yes.

20 Q. Are you going to present that
21 testimony to the jury in this case?

22 A. Yeah, it's a frank pus at the site
23 of erosion. These are the images. This is DM5. It's
24 frank pus on the surface.

1 Q. Are you Board certified in
2 infectious disease?

3 A. No. I'm Board certified in
4 pathology and we diagnose these conditions under
5 microscope.

6 Q. And has any culture ever been taken
7 of that discharge that you had?

8 A. I answered that question. You asked
9 it already.

10 Q. And the answer was no?

11 A. No.

12 Q. In Mr. Thornburgh's questioning he
13 asked you about your entry on October 4th, 2013. Do
14 you remember that question?

15 A. I mean not my entry, my copy from
16 the record.

17 Q. Sure. Okay. Where you have copied
18 a medical record?

19 A. Yes.

20 Q. And in that you copied, "She denies
21 any infection associated with the mesh." Didn't you?

22 A. That's her interpretation. She.
23 She. It's not the diagnosis.

24 Q. And you haven't read Dr. Croak's

1 deposition have you?

2 A. No.

3 Q. And you have reviewed Dr. Croak's
4 medical record haven't you?

5 A. Yes, I did.

6 Q. And Dr. Croak made no finding that
7 she suffered from an infection?

8 A. Well, yellow/brown discharge.

9 Q. Did Dr. Croak diagnose Ms. Massey as
10 suffering from an infection?

11 A. I don't know but he describes
12 yellow/brown discharge. This is purulent discharge to
13 me.

14 Q. Did Dr. Croak prescribe any
15 antibiotic therapy for Ms. Massey?

16 A. I don't know. We can check. But
17 treatment for erosion is excision of the mesh,
18 antibiotics will not help.

19 Q. And you don't know what Dr. Croak's
20 testimony on that point was nor do you know what his
21 clinical treatment was do you?

22 A. I don't. I mean, why do I need a
23 clinician? This is frank pus. If clinicians -- even
24 if he says there's no infection, if clinicians were

1 right why would we have pathologist? I mean, we would
2 be out of job if clinicians could diagnose these things
3 on their own. I mean, they would be able to diagnose
4 cancers and other conditions. The whole pathology
5 would be redundant. I am the final answer for these
6 questions and this is frank pus.

7 Q. Do you have an infectious disease
8 specialist at St. Michael's Hospital?

9 A. If infectious diseases would not
10 need pathologists to identify some microorganisms why
11 would we be there?

12 Q. Do you know whether there was an
13 infectious disease specialist at the hospital where
14 Ms. Massey's procedure was performed?

15 A. Why would you need infectious
16 disease? Infectious diseases are involved in very
17 severe infections, sepsis and other conditions. For
18 vulvar infection or vaginal infection associated with
19 foreign body you need urogynecologist to excise it.
20 Why are you bringing this up? I mean, again -- okay,
21 anyways.

22 Q. Dr. Iakovlev, I want to ask you some
23 questions about your testimony regarding DM13 which you
24 said were the particles. Was it your testimony that

1 there are macrophages around what you describe as
2 particles?

3 A. Yes.

4 Q. And is it your testimony that that
5 shows that these particles were present from the date
6 the mesh was implanted in 2005?

7 MR. THORNBURGH: Objection.

8 THE DEPONENT: Well, that's my
9 interpretation considering all features.

10 BY MR. COMBS:

11 Q. If a foreign body is implanted in
12 the body how long does it take for macrophages to
13 respond to it?

14 A. Not long. Days. But then it can
15 stay for years.

16 Q. And if this had -- if this particle
17 had been lodged in Ms. Massey's tissue any time more
18 than a couple of days before it was explanted there
19 would be macrophages around it wouldn't there?

20 A. The macrophages are not the only
21 feature I'm reliant on.

22 Q. That's my question.

23 A. So you're trying to represent -- the
24 macrophages are not the dating of the particles.

1 Macrophages are confirming that they were present in
2 vivo and there was vital reaction. For dating I'm
3 reliant on their appearance and the bark thickness and
4 other features. So let's not misrepresent the role of
5 macrophages.

6 Q. Well it was Mr. Thornburgh that
7 asked you that question.

8 MR. THORNBURGH: Well --

9 BY MR. COMBS:

10 Q. If the presence of macrophages
11 showed you that that had been present since the implant
12 surgery. And that doesn't show that does it?

13 MR. THORNBURGH: That mischaracterizes
14 my question. The additional feature of macrophages.

15 THE DEPONENT: Macrophage is just one of
16 the features. There are many features and macrophages
17 is one of the important features to confirm that they
18 were present before the surgery, but other features
19 help with dating.

20 BY MR. COMBS:

21 Q. And the revision surgery for Ms.
22 Massey's mesh, the first revision, the one that you
23 don't have the pathology for, happened approximately
24 four years before this explant that you do have a

1 slides for?

2 A. That's correct. I wouldn't expect
3 that degree of degradation within four years. And
4 that's -- I'm telling you this as a researcher who
5 published on polypropylene degradation and review.

6 Q. So what is your testimony regarding
7 the thickness of the degradation for the particle?

8 A. Well, see, the particles are
9 triangular. They are split within and some parts are
10 even thicker than the bark of the fiber. And as I said
11 they are triangular. This is assessment based on the
12 image. So if we try to restore the shape of this
13 particle, assuming this will correspond to at least the
14 same thickness as the bark around the fiber. And now
15 if we try to restore the shape before it cracked here,
16 this fragment, again it would be at least the same
17 thickness.

18 So this particle had been degrading for
19 much longer than four years. That's my assessment
20 based on thickness of the bark, because this can be
21 used as a scale and assessment restoration of the shape
22 of the particle before it cracked.

23 Q. Have you measured the thickness of
24 the degradation layer, as you describe it, for the

1 particle with any micrometer?

2 A. I probably did, I don't remember
3 now.

4 Q. Is there anything in your report
5 that would show us any measurement regarding that
6 particle?

7 A. I didn't record that. This is just
8 my conclusion now.

9 Q. Is there any place in your report
10 where you have provided any opinion regarding the
11 length of time that the particle that's -- that you're
12 pointing out in DM13 had been implanted in the body?

13 MR. THORNBURGH: Objection.

14 THE DEPONENT: I don't remember now.
15 See, another thing is that there is a summary here
16 because there are two images, one smaller particle, one
17 larger particle. So if I try to time particles on DM13
18 and the particle in DM14 the timing will be different.

19 Clearly this small particle did not
20 absorb as much dye. That particle could be even
21 dislodged during that excision. So I did not provide
22 the summary of dating for specific particles in my
23 report. But if you ask me specifically dating of
24 particles for each image I can give you an answer, and

1 I just gave it.

2 BY MR. COMBS:

3 Q. Alright. No more questions.

4 MR. THORNBURGH: Alright. No questions.

5 --- Whereupon the examination was
6 completed at 11:04 a.m.

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REPORTER'S CERTIFICATE

I, HELEN MARTINEAU, CSR, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein set forth
at which time the witness was put under oath by me;

That the testimony of the witness and
all objections made at the time of the examination were
recorded stenographically by me and were thereafter
transcribed;

That the foregoing is a true and
accurate transcript of my shorthand notes so taken.

PER: HELEN MARTINEAU

CERTIFIED SHORTHAND REPORTER.

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4 PAGE LINE CHANGE

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Vladimir Iakovlev, M.D.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, and that the same is
a correct transcription of the answers
given by me to the questions therein
propounded, except for the corrections or
changes in form or substance, if any,
noted in the attached Errata Sheet.

VLADIMIR IAKOVLEV, M.D. DATE

Subscribed and sworn
to before me this
_____ day of _____, 20____.
My commission expires:_____

Notary Public